

## Part 6 Procedures and Records

### **49-11-601 Payment of employer contributions -- Penalties for failure to comply -- Adjustments to be made.**

- (1) The employer contributions, fees, premium taxes, contribution adjustments, and other required payments shall be paid to the office by the participating employer as determined by the executive director.
- (2) A participating employer that fails to withhold the amount of any member contributions, as soon as administratively possible, shall also pay the member contributions to the office out of its own funds.
- (3) Except as limited by Subsections (6) and (7), if a participating employer does not make the contributions required by this title within 30 days of the end of the pay period, the participating employer is liable to the office as provided in Section 49-11-604 for:
  - (a) delinquent contributions;
  - (b) interest on the delinquent contributions as calculated under Section 49-11-503; and
  - (c) a penalty equal to the greater of:
    - (i) \$250; or
    - (ii) 50% of the total contributions for the employees for the period of the reporting error.
- (4) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the participating employer's failure to comply with this section.
- (5) Contributions made in error will be refunded to the participating employer or member that made the contributions.
- (6)
  - (a) An employer described in Subsection 49-12-202(2)(c) or (d), or Subsection 49-13-202(2)(c), (d), or (e) that paid retirement benefits to an employee or retiree that were not required by this title may offer the retirement benefits paid to the employee as a substantial substitute to service credit and retirement benefits that may have been earned by the employee under this title.
  - (b) An employee who received retirement benefits under Subsection (6)(a) may sign an affidavit that:
    - (i) acknowledges the substantial substitute received by the employee under Subsection (6)(a); and
    - (ii) irrevocably relinquishes service credit and retirement benefits that may have accrued to the employee under this title effective from the employee's date of employment with the employer described in Subsection (6)(a) to the date of the employer's election under Section 49-12-202 or 49-13-202.
  - (c) Nothing in this section shall be construed to diminish an employer's right to recover past retirement benefits other than Social Security, paid to an employee or retiree, in error or under mistaken belief that the employer was not a participating employer.
- (7) If the employer files with the office an irrevocable written relinquishment of service credit signed by the member or retiree:
  - (a) the office shall proportionally reduce any delinquent contributions, penalties, fees, or interest assessed against a participating employer in connection with a member or retiree described in Subsection (6)(a); and
  - (b) the system has no liability to the employee for benefits relinquished under Subsection (6)(b).

Amended by Chapter 243, 2015 General Session

**49-11-602 Participating employer to maintain records -- Time limit -- Penalties for failure to comply.**

- (1) A participating employer shall:
  - (a) maintain records necessary to calculate benefits under this title and other records necessary for proper administration of this title as required by the office; and
  - (b) maintain records that indicate whether an employee is receiving:
    - (i) a benefit under state or federal law that, under Subsection 49-12-102(1)(b)(vi) or (vii), is excluded from the definition of benefits normally provided for purposes of Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, or Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
    - (ii) a benefit under a benefit package generally offered to similarly situated employees.
- (2) A participating employer shall maintain the records required under Subsection (1) until the earliest of:
  - (a) three years after the date of retirement of the employee from a system or plan;
  - (b) three years after the date of death of the employee; or
  - (c) 65 years from the date of employment with the participating employer.
- (3) A participating employer shall be liable to the office for:
  - (a) any liabilities and expenses, including administrative expenses and the cost of increased benefits to members, resulting from the participating employer's failure to maintain records under this section; and
  - (b) a penalty equal to 1% of the participating employer's last month's contributions.
- (4) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the participating employer's failure to comply with this section.
- (5) The executive director may estimate the length of service, compensation, or age of any member, if that information is not contained in the records.
- (6)
  - (a) A participating employer shall enroll an employee, make reports, submit contributions, and provide other requested information electronically in a manner approved by the office.
  - (b) A participating employer shall treat any information provided electronically or otherwise by the office as subject to the confidentiality provisions of this title.

Amended by Chapter 109, 2013 General Session

**49-11-603 Participating employer to report and certify -- Time limit -- Penalties for failure to comply.**

- (1) As soon as administratively possible, but in no event later than 30 days after the end of each pay period, a participating employer shall report and certify to the office:
  - (a) the eligibility for service credit accrual of:
    - (i) each current employee;
    - (ii) each new employee as the new employee begins employment; and
    - (iii) any changes to eligibility for service credit accrual of each employee;
  - (b) the compensation of each current employee eligible for service credit; and

- (c) other factors relating to the proper administration of this title as required by the executive director.
- (2) Each participating employer shall submit the reports required under Subsection (1) in a format approved by the office.
- (3) A participating employer shall be liable to the office for:
  - (a) any liabilities and expenses, including administrative expenses and the cost of increased benefits to employees, resulting from the participating employer's failure to correctly report and certify records under this section;
  - (b) a penalty equal to the greater of:
    - (i) \$250; or
    - (ii) 50% of the total contributions for the employees for the period of the reporting error; and
  - (c) attorney fees.
- (4) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the participating employer's failure to comply with this section.
- (5) The executive director may estimate the length of service, compensation, or age of any employee, if that information is not contained in the records.

Amended by Chapter 243, 2015 General Session

**49-11-604 Office audits of participating employers -- Penalties for failure to comply.**

- (1)
  - (a) The office may perform on-site compliance audits of participating employers to determine compliance with reporting, contribution, and certification requirements under this title.
  - (b) The office may request records to be provided by the participating employer at the time of the audit.
  - (c) Audits shall be conducted at the sole discretion of the office after reasonable notice to the participating employer of at least five working days.
  - (d) The participating employer shall extract and provide records as requested by the office in an appropriate, organized, and usable format.
  - (e) Failure of a participating employer to allow access, provide records, or comply in any way with an office audit shall result in the participating employer being liable to the office for:
    - (i) any liabilities and expenses, including administrative expenses and travel expenses, resulting from the participating employer's failure to comply with the audit; and
    - (ii) a penalty equal to 1% of the participating employer's last month's contributions.
- (2) If the audit reveals a participating employer's failure to make contributions as required under Section 49-11-601, a failure to maintain records as required under Section 49-11-602, or a failure to correctly report or certify eligibility as required under Section 49-11-603, the participating employer shall reimburse the office for the cost of the audit.
- (3) If the audit reveals that an incorrect benefit has been paid by the office to a member, participant, alternate payee, or beneficiary due to a participating employer's failure to comply with the requirements of Section 49-11-601, 49-11-602, or 49-11-603, in addition to the liabilities contained in Subsection (2), the participating employer shall be liable to the office for the following:
  - (a) the actuarial cost of correcting the incorrect benefit; and
  - (b) administrative expenses.

- (4) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the participating employer's failure to comply with this section.

Amended by Chapter 240, 2003 General Session

**49-11-605 Notification and correction of violations.**

If a participating employer discovers that it has violated Section 49-11-601, 49-11-602, or 49-11-603 prior to the office becoming aware of the violation, notifies the office of the violation in writing, and corrects the violation within a period agreed to by the office, the penalties under those sections shall be waived.

Enacted by Chapter 250, 2002 General Session

**49-11-606 Full participation.**

Except as provided in Sections 49-12-203, 49-12-204, 49-13-203, 49-13-204, 49-14-203, and 49-15-203, participating employers shall cover all employees eligible for service credit under this title.

Enacted by Chapter 250, 2002 General Session

**49-11-607 Determination of benefits -- Errors in records or calculations -- Correction of errors by the office.**

- (1) After the retirement date, which shall be set by a member in the member's application for retirement, no alteration, addition, or cancellation of a benefit may be made except as provided in Subsections (2), (3), and (4) or other law.
- (2)
  - (a) Errors in the records or in the calculations of the office which result in an incorrect benefit to any member, retiree, participant, covered individual, alternate payee, or beneficiary shall be corrected by the office if the correction results in a modification of the benefit amount of \$5 or more.
  - (b) Future payments shall be made to any member, retiree, participant, covered individual, alternate payee, or beneficiary to:
    - (i) pay the benefit to which the member or beneficiary was entitled; or
    - (ii) recover any overpayment.
- (3)
  - (a) Errors in the records or calculation of a participating employer which result in an incorrect benefit to a member, retiree, participant, covered individual, alternate payee, or beneficiary shall be corrected by the participating employer.
  - (b) If insufficient employer contributions have been received by the office, the participating employer shall pay any delinquent employer contributions, plus interest under Section 49-11-503, required by the office to maintain the system, plan, or program affected on an actuarially sound basis.
  - (c) If excess contributions have been received by the office, the contributions shall be refunded to the participating employer or member which paid the contributions.
- (4) If a dispute exists between a participating employer and a member at the time of the member's retirement which will affect the member's benefit calculation, and notice of the dispute is given to the office prior to the calculation of a member's benefit, the benefit may be paid based on the

member's retirement date and the records available and then recalculated upon settlement of the dispute.

Amended by Chapter 316, 2013 General Session

**49-11-608 False statements or records -- Unlawfully cashing benefit checks.**

- (1) A person who knowingly makes any false statement, or who falsifies or permits to be falsified any record necessary for carrying out the intent of this title is in violation of Section 76-6-504.
- (2) A person cashing a benefit check to which that person is not entitled is in violation of Section 76-6-501.

Renumbered and Amended by Chapter 250, 2002 General Session

**49-11-609 Beneficiary designations -- Revocation of beneficiary designation -- Procedure -- Beneficiary not designated -- Payment to survivors in order established under the Uniform Probate Code -- Restrictions on payment -- Payment of deceased's expenses.**

- (1) As used in this section, "member" includes a member, retiree, participant, covered individual, a spouse of a retiree participating in the insurance benefits created by Sections 49-12-404 and 49-13-404, or an alternate payee under a domestic relations order dividing a defined contribution account.
- (2) The most recent beneficiary designations signed by the member and filed with the office, including electronic records, at the time of the member's death are binding in the payment of any benefits due under this title.
- (3)
  - (a) Except where an optional continuing benefit is chosen, or the law makes a specific benefit designation to a dependent spouse, a member may revoke a beneficiary designation at any time and may execute and file a different beneficiary designation with the office.
  - (b) A change of beneficiary designation shall be completed on forms provided by the office.
- (4)
  - (a) All benefits payable by the office may be paid or applied to the benefit of the surviving next of kin of the deceased in the order of precedence established under Title 75, Chapter 2, Intestate Succession and Wills, if:
    - (i) no beneficiary is designated or if all designated beneficiaries have predeceased the member;
    - (ii) the location of the beneficiary or secondary beneficiaries cannot be ascertained by the office within 12 months of the date a reasonable attempt is made by the office to locate the beneficiaries; or
    - (iii) the beneficiary has not completed the forms necessary to pay the benefits within six months of the date that beneficiary forms are sent to the beneficiary's last-known address.
  - (b)
    - (i) A payment may not be made to a person included in any of the groups referred to in Subsection (4)(a) if at the date of payment there is a living person in any of the groups preceding it.
    - (ii) Payment to a person in any group based upon receipt from the person of an affidavit in a form satisfactory to the office that:
      - (A) there are no living individuals in the group preceding it;
      - (B) the probate of the estate of the deceased has not been commenced; and
      - (C) more than 30 days have elapsed since the date of death of the decedent.
- (5) Benefits paid under this section shall be:

- (a) a full satisfaction and discharge of all claims for benefits under this title; and
- (b) payable by reason of the death of the decedent.

Amended by Chapter 227, 2016 General Session

**49-11-610 Benefits payable in name of beneficiary -- Delivery.**

- (1)
  - (a) Any benefits payable to a beneficiary shall be made in the name of and delivered to the beneficiary or the lawfully appointed guardian or conservator of the beneficiary, or delivered as otherwise ordered by a court of competent jurisdiction under Title 75, Utah Uniform Probate Code.
  - (b) If the benefit involves a payment not to exceed an amount authorized by the Utah Uniform Probate Code to any one beneficiary, the office may, without the appointment of a guardian or conservator or the giving of a bond, pay the amount due to the beneficiary or to the persons assuming their support.
  - (c) The payment shall be in either a lump sum or in monthly amounts.
  - (d) The total of the payments made under this section shall fully discharge and release the office from any further claims.
- (2) A beneficiary who qualifies for a monthly benefit under this section shall apply in writing to the office.
- (3) The allowance shall begin on the first day of the month following the month in which the:
  - (a) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or
  - (b) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Amended by Chapter 15, 2014 General Session

**49-11-611 Benefits and money in the fund exempt from taxation -- Exceptions.**

- (1) Except as provided under Subsection (2), the benefits accrued or paid to any beneficiary of any system or plan administered by the board and the contributions, money, securities, and other assets in the funds created by this title are exempt from any state, county, or municipal tax.
- (2) An allowance, a refund of member contributions, or other benefits that are subject to federal income tax, which is received by a member, retiree, alternate payee, participant, or beneficiary of any system or plan administered by the board and which has not been taxed is subject to Title 59, Chapter 10, Individual Income Tax Act.

Renumbered and Amended by Chapter 250, 2002 General Session

**49-11-612 Domestic relations order benefits -- Nonassignability of benefits or payments -- Exemption from legal process.**

- (1) As used in this section, "domestic relations order benefits" means:
  - (a) an allowance;
  - (b) a defined contribution account established under:
    - (i) Part 8, Defined Contribution Plans;
    - (ii) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
    - (iii) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act;
  - (c) a continuing monthly death benefit established under:

- (i)Chapter 14, Part 5, Death Benefit;
  - (ii)Chapter 15, Part 5, Death Benefit;
  - (iii)Chapter 16, Part 5, Death Benefit;
  - (iv)Chapter 17, Part 5, Death Benefit;
  - (v)Chapter 18, Part 5, Death Benefit; or
  - (vi)Chapter 19, Part 5, Death Benefit;
  - (d) a lump sum death benefit provided under:
    - (i)Chapter 12, Part 5, Death Benefit;
    - (ii)Chapter 13, Part 5, Death Benefit;
    - (iii)Chapter 22, Part 5, Death Benefit; or
    - (iv)Chapter 23, Part 5, Death Benefit; or
  - (e) a refund of member contributions upon termination.
- (2) Except as provided in Subsections (3), (4), and (5), the right of any member, retiree, participant, covered individual, or beneficiary to any retirement benefit, retirement payment, or any other retirement right accrued or accruing under this title and the assets of the funds created by this title are not subject to alienation or assignment by the member, retiree, participant, or their beneficiaries and are not subject to attachment, execution, garnishment, or any other legal or equitable process.
- (3)
- (a) The office may, upon the request of the retiree, deduct from the retiree's allowance, insurance premiums or other dues payable on behalf of the retiree, but only to those entities that have received the deductions prior to February 1, 2002.
  - (b) The office may, upon the request of a retiree of a public safety or firefighter system, deduct insurance premiums from the retiree's allowance.
- (4)
- (a) The office shall provide for the division of domestic relations order benefits with former spouses and family members under an order of a court of competent jurisdiction with respect to domestic relations matters on file with the office.
  - (b) The court order shall specify the manner in which the domestic relations order benefits shall be partitioned, whether as a fixed amount or as a percentage of the benefit.
  - (c) Domestic relations order benefits split under a domestic relations order are subject to the following:
    - (i) the amount to be paid or the period for which payments shall be made under the original domestic relations order may not be altered if the alteration affects the actuarial calculation of the allowance;
    - (ii) payments to an alternate payee shall begin at the time the member or beneficiary begins receiving payments; and
    - (iii) the alternate payee shall receive payments in the same form as allowances received by the member or beneficiary.
  - (d) To be valid, a court order under this section must be received by the office within 12 months of the death of the member.
  - (e) A court order under this section may not require and may not be interpreted in any way to require the office to provide any type of benefit or any option not otherwise provided under this title.
- (5) In accordance with federal law, the board may deduct the required amount from any benefit, payment, or other right accrued or accruing to any member or beneficiary of a system, plan, or program under this title to offset any amount that member or beneficiary owes to a system, plan, or program administered by the board.

(6) The board shall make rules to implement this section.

Amended by Chapter 243, 2015 General Session

**49-11-613 Appeals procedure -- Right of appeal to hearing officer -- Board reconsideration -- Judicial review.**

- (1)
- (a) A member, retiree, participant, alternative payee, covered individual, employer, participating employer, and covered employer shall inform themselves of their rights and obligations under this title.
  - (b) Subject to the provisions in Subsection (8), any dispute regarding a benefit, right, obligation, or employment right under this title is subject to the procedures provided under this section.
  - (c)
    - (i) A person who disputes a benefit, right, obligation, or employment right under this title shall request a ruling by the executive director who may delegate the decision to the deputy director.
    - (ii) A request for a ruling to the executive director under this section shall constitute the initiation of an action for purposes of the limitations periods prescribed in Section 49-11-613.5.
  - (d) A person who is dissatisfied by a ruling under Subsection (1)(c) with respect to any benefit, right, obligation, or employment right under this title shall have 30 days from the date of the ruling to request a review of that claim by a hearing officer.
  - (e) The executive director, on behalf of the board, may request that the hearing officer review a dispute regarding any benefit, right, obligation, or employment right under this title by filing a notice of board action and providing notice to all affected parties in accordance with rules adopted by the board.
- (2) The hearing officer shall:
- (a) be hired by the executive director after consultation with the board;
  - (b) follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, except as specifically modified under this title;
  - (c) hear and determine all facts relevant to a decision, including facts pertaining to applications for benefits under any system, plan, or program under this title and all matters pertaining to the administration of the office; and
  - (d) make conclusions of law in determining the person's rights under any system, plan, or program under this title and matters pertaining to the administration of the office.
- (3) The board shall review and approve or deny all decisions of the hearing officer in accordance with rules adopted by the board.
- (4) The moving party in any proceeding brought under this section shall bear the burden of proof.
- (5) A party may file an application for reconsideration by the board upon any of the following grounds:
- (a) that the board acted in excess of its powers;
  - (b) that the order or award was procured by fraud;
  - (c) that the evidence does not justify the determination of the hearing officer; or
  - (d) that the party has discovered new material evidence that could not, with reasonable diligence, have been discovered or procured prior to the hearing.
- (6) The board shall affirm, reverse, or modify the decision of the hearing officer, or remand the application to the hearing officer for further consideration.
- (7) A party aggrieved by the board's decision may obtain judicial review by complying with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.



- (8) The program shall provide an appeals process for medical claims that complies with federal law.
- (9) The board may make rules to implement this section.

Amended by Chapter 251, 2016 General Session

**49-11-613.5 Limitation of actions -- Cause of action.**

- (1) Subject to the procedures provided in Section 49-11-613 and except as provided in Subsection (3), an action regarding a benefit, right, obligation, or employment right brought under this title may be commenced only within four years of the date that the cause of action accrues.
- (2)
  - (a) A cause of action accrues under this title and the limitation period in this section runs from the date when the aggrieved party became aware, or through the exercise of reasonable diligence should have become aware, of the facts giving rise to the cause of action, including when:
    - (i) a benefit, right, or employment right is or should have been granted;
    - (ii) a payment is or should have been made; or
    - (iii) an obligation is or should have been performed.
  - (b) If a claim involves a retirement service credit issue under this title:
    - (i) a cause of action specifically accrues at the time the requisite retirement contributions relating to that retirement service credit are paid or should have been paid to the office; and
    - (ii) the person is deemed to be on notice of the payment or nonpayment of those retirement contributions.
- (3) If an aggrieved party fails to discover the facts giving rise to the cause of action due to misrepresentation, fraud, intentional nondisclosure, or other affirmative steps to conceal the cause of action, a limitation period prescribed in this section does not begin to run until the aggrieved party actually discovers the existence of the cause of action.
- (4) The person claiming a benefit, right, obligation, or employment right arising under this title has the burden of bringing the action within the period prescribed in this section.
- (5) Nothing in this section relieves a member, retiree, participant, alternative payee, covered individual, employer, participating employer, or covered employer of the obligations under this title.
- (6) The office is not required to bring a claim on behalf of a member, retiree, participant, alternative payee, covered individual, employer, participating employer, or covered employer.
- (7)
  - (a) A limitation period provided in this section does not apply to actions for which a specific limit is otherwise specified in this title or by contract, including master policies or other insurance contracts.
  - (b) For actions arising under this title, this section supersedes any applicable limitation period provided in Title 78B, Chapter 2, Statutes of Limitations.

Enacted by Chapter 251, 2016 General Session

**49-11-614 Vesting on termination of system or plan.**

If any system or the Utah Governors' and Legislators' Retirement Plan is terminated, the accrued benefits of each member in the terminated system or plan shall immediately become vested and nonforfeitable.

Renumbered and Amended by Chapter 250, 2002 General Session

**49-11-615 Election to grandfather -- Applicability of provisions.**

- (1) Notwithstanding any other provision of this title, the allowance payable to any person who becomes a member of any system, administered by the board on or after January 1, 1990, may not exceed the limitation imposed by Section 415 of the Internal Revenue Code of 1986, as amended, which is incorporated by reference.
- (2) This constitutes an election of the grandfather provision under Section 415(b)(10)(C) of the Internal Revenue Code.

Renumbered and Amended by Chapter 250, 2002 General Session

**49-11-616 Benefits information.**

- (1) The office shall provide written general information to each participating employer concerning benefits available under this title.
- (2)
  - (a) A participating employer shall provide the information under Subsection (1) to each eligible employee:
    - (i) immediately upon termination of service, leave of absence, commencement of long-term disability benefits, or retirement; and
    - (ii) in person or, if the employee is unavailable to receive the information in person, by mailing the information to the employee's last known address.
  - (b)
    - (i) Each participating employer shall maintain the records necessary to demonstrate that the employer has provided the information outlined in Subsection (1) as required in Subsection (2)(a).
    - (ii) The records shall be made available to the office upon request.
- (3)
  - (a) The office shall provide each participating employer with a form to be signed by each employee to verify that the employee has been given in person the information required by this section.
  - (b) If an employer provides information under Subsection (1) by mail as provided in Subsection (2)(a)(ii), the employer shall:
    - (i) indicate on the form that the information was mailed to the employee and the address to which the information was mailed;
    - (ii) maintain the records necessary to demonstrate that the employer complied with the requirements under this Subsection (3); and
    - (iii) make the records available to the office upon request.

Amended by Chapter 243, 2015 General Session

**49-11-617 Original documents.**

- (1) At the reasonable discretion of the office, any document relating to this title may be treated as an original, whether created by photocopy, facsimile, e-mail, electronic transmission, imaging, or other technology.
- (2) The office may communicate with participating employers, members, beneficiaries, and others through electronic means as determined appropriate by the office.

Amended by Chapter 316, 2013 General Session

**49-11-618 Members and beneficiaries subject to chapter -- Furnishing of information -- Confidentiality of information.**

- (1)
  - (a) Every member, retiree, participant, covered individual, alternate payee, and beneficiary is subject to this chapter, rules made by the board or office, board actions, resolutions, policies, and procedures adopted under this title.
  - (b) Each member, retiree, participant, covered individual, alternate payee, and beneficiary shall furnish to the office any information required to carry out the purposes of this title.
- (2)
  - (a) All data in the possession of the office is confidential, and may not be divulged by the office except as permitted by board action.
  - (b) All data in the possession of the office or divulged pursuant to board action shall be used for the sole purpose of carrying into effect the provisions of this title.

Renumbered and Amended by Chapter 250, 2002 General Session

**49-11-619 Permanent relinquishment of benefit -- Procedure.**

- (1)
  - (a) Except for defined contribution plans authorized by this title, a member, retiree, or beneficiary may permanently relinquish a benefit under this title by signing an irrevocable written relinquishment.
  - (b) If the retiree has designated a beneficiary which is still living, the written relinquishment must be signed by both the retiree and the beneficiary.
- (2) The value of the benefit permanently relinquished under Subsection (1) shall remain in the fund from which the benefit was relinquished and shall be used in the calculation of future contribution rates.
- (3) A designated beneficiary may disclaim beneficiary status and the benefit shall then be payable first to any alternate designated beneficiary, then dispersed under Title 75, Chapter 2, Intestate Succession and Wills, as applicable.
- (4) The office is not required to recognize or accept any written relinquishment that jeopardizes the tax qualified status of the systems, plans, or programs or otherwise violates federal law.

Amended by Chapter 252, 2008 General Session

**49-11-620 Closing the retirement account -- Status of retirees and beneficiaries.**

- (1) The monthly benefit payable for the month a retiree, beneficiary, or alternate payee dies shall be a full monthly benefit and shall be payable to the estate of the deceased.
- (2) If more than one year has elapsed since the death of a retiree whose designated beneficiary is deceased and whose account payable to the beneficiary amounts to \$100 or less, the account shall be closed and further payment may not be made.

Enacted by Chapter 250, 2002 General Session

**49-11-621 Change in employer -- Eligibility for retirement.**

- (1) If a participating employer is dissolved, consolidated, merged, or is structurally changed in any way, but similar services are provided by the same members after the change, the members

may not be considered terminated for purposes of eligibility for retirement until the members actually terminate and are otherwise eligible for retirement.

(2) The board may adopt rules to implement this section.

Enacted by Chapter 116, 2005 General Session

**49-11-622 Subsidiaries or other companies owned by independent corporations -- Participation -- Withdrawal.**

- (1) Notwithstanding any other provision of this title, an independent corporation, as defined in Section 63E-1-102, which participates in a system or plan prior to July 1, 2006, and which owns a subsidiary, or other company may provide for the participation of employees with that system or plan as follows:
- (a) the independent corporation shall determine a date that is no later than January 1, 2007, on which the independent corporation shall make an election under Subsection (2);
  - (b) an employee hired by the independent corporation and transferred to a subsidiary, or other company on or after the date set under Subsection (1)(a) may not participate in a system or plan; and
  - (c) the independent corporation shall pay to the office any actuarial or administrative cost, determined by the office, to have arisen out of the transfer of the employees from the independent corporation.
- (2) The independent corporation described under Subsection (1) shall elect to:
- (a) continue its participation for all current employees covered by a system or plan and transferred to a subsidiary, or other company, as of the date set under Subsection (1)(a); or
  - (b) withdraw from participation in all systems or plans for all employees covered by a system or plan and transferred to the subsidiary, or other company, as of the date set under Subsection (1)(a).
- (3) If an independent corporation elects to continue participation under Subsection (2)(a), the independent corporation and the transferred employees shall continue to be subject to the laws and the rules governing the system or plan in which the employee participates, including the accrual of service credit and payment of contributions.

Enacted by Chapter 309, 2006 General Session

**49-11-623 Withdrawing entity -- Participation election date -- Withdrawal costs -- Rulemaking.**

- (1) As used in this section, "withdrawing entity" means an entity that:
- (a) participates in a system or plan under this title prior to July 1, 2014;
  - (b) provides mental health and substance abuse services for a county under Section 17-50-318;
  - (c) after beginning participation with a system or plan under this title, has modified its federal tax status to a nonprofit organization that qualifies under Section 501(c)(3) of the Internal Revenue Code; and
  - (d) is not a state institution of higher education as described in Section 53B-2-101.
- (2) Notwithstanding any other provision of this title, a withdrawing entity may provide for the participation of its employees with that system or plan as follows:
- (a) the withdrawing entity shall determine a date that is no later than January 1, 2017, on which the withdrawing entity shall make an election under Subsection (3); and

- (b) subject to the provisions of Subsection (6), the withdrawing entity shall pay to the office any reasonable actuarial and administrative costs determined by the office to have arisen out of an election made under this section.
- (3) The withdrawing entity described under Subsection (2) may elect to:
  - (a)
    - (i) continue its participation for all current employees of the withdrawing entity, who are covered by a system or plan as of the date set under Subsection (2)(a); and
    - (ii) withdraw from participation in all systems or plans for all persons initially entering employment with the withdrawing entity, beginning on the date set under Subsection (2)(a); or
  - (b) withdraw from participation in all systems or plans for all current and future employees of the withdrawing entity, beginning on the date set under Subsection (2)(a).
- (4)
  - (a) An election provided under Subsection (3):
    - (i) is a one-time election made no later than the date specified under Subsection (2)(a);
    - (ii) shall be documented by a resolution adopted by the governing body of the withdrawing entity;
    - (iii) is irrevocable; and
    - (iv) applies to the withdrawing entity as the employer and to all employees of the withdrawing entity.
  - (b) Notwithstanding an election made under Subsection (3), any eligibility for service credit earned by an employee under this title before the date specified under Subsection (2)(a) is not affected by this section.
- (5) If a withdrawing entity elects to continue participation under Subsection (3), the withdrawing entity shall continue to be subject to the laws and the rules governing the system or plan in which an employee participates, including the accrual of service credit and payment of contributions.
- (6) Before a withdrawing entity may withdraw under this section, the withdrawing entity and the office shall enter into an agreement on:
  - (a) the costs described under Subsection (2)(b); and
  - (b) arrangements for the payment of the costs described under Subsection (2)(b).
- (7) The board shall make rules to implement this section.

Amended by Chapter 364, 2015 General Session